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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,066	12/31/2003	Kenneth A. Tarlow		7373

7590

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EXAMINER

SCRUGGS, ROBERT J

ART UNIT

PAPER NUMBER

3723

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/749,066

Applicant(s)

TARLOW, KENNETH A.

Examiner

Robert Scruggs

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-10 is/are rejected.
- 7) ☒ Claim(s) 4,5 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings were received on 6/14/04. These drawings are not accepted. According to the requirements under 37 CFR § 1.84, Standards for drawings, all drawings must be made by a process, which will give them satisfactory reproduction characteristics. Every line, number, and letter must be durable, clean, black (except for color drawings), sufficiently dense and dark, and uniformly thick and well defined. The use of shading in views is encouraged if it aids in understanding the invention and if it does not reduce legibility. Shading is used to indicate the surface or shape of spherical, cylindrical, and conical elements of an object.

### ***Claim Objections***

2. Claim 11 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 11 is objected to for merely reciting functional language directed to the intended use of the utensil and does not provide further structure to limit the independent claim.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:-

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

4. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This claim discloses the function of the kitchen tools but does not positively recite which kitchen tools are to be used.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1,2 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Stimpson (4823419). Stimpson discloses a multi purpose kitchen temperature resistant utensil comprising of an elongated handle having recessed portions to provide storage for a plurality of kitchen tools (column 1, lines 23-26 and 29-33). The handle is foldable such that when the handle is folded the kitchen tools at each end nest compactly with one another (Figure 2). Stimpson teaches that when the multi purpose kitchen utensil is folded together the spatula is adapted to act as a strainer (column 1 lines 43-47) and the scoop is adapted to act as tongs (column 2 lines 11-13). The handle is made up of two members, which fit together end to end (Figure 1). The two members are joined by an inner elastic cord, which is fastened to the insides of each of the assembled handle parts (column 1 lines 49 –54 and column 2 lines 1-2). This multi purpose utensil

incorporates nine elements, which include: a standard spatula, spoon, pot lifter, tongs, ladle, strainer, measuring container, a serrated knife, and grater (column 4 lines 2-6).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stimpson (4823419) in view of Haddock (4716947). Stimpson shows all of the claimed invention except for the storage case for the multi purpose kitchen utensil. Haddock discloses a storage case made from a combination of plastic and a cloth material (column 1 lines 24-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Stimpson by providing a storage case as taught by Haddock in order to obtain a secure storage for the multi purpose kitchen utensil.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stimpson in view of Elsener (D433915) and Grotz (3406450). Stimpson shows all of the claimed invention except for the stored tools within the handles, which include a corkscrew, a bottle opener, a can opener, and a vegetable peeler. Elsener discloses a pocket tool containing a corkscrew, a bottle opener, and a can opener. Grotz teaches of a peeler (Figure 1). It would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify Stimpson by combining one multi tool with another in order to have the components of Elsener and Grotz in the multi purpose kitchen utensil.

***Allowable Subject Matter***

10. Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert Scruggs whose telephone number is 571-272-8682. The examiner can normally be reached on m-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RS

6/17/05

  
**DAVID B. THOMAS**  
**PRIMARY EXAMINER**  
AV3723